

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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CLEAR BLUE INSURANCE COMPANY, as a
subrogee of ZAHIDUL ISLAM,

Plaintiff,

- against -

ORDER

UNITED STATES POSTAL SERVICE and JAMEL
GREEN,

22 Civ. 2084 (NRB)

Defendants.

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NAOMI REICE BUCHWALD
UNITED STATES DISTRICT JUDGE

WHEREAS, on March 14, 2022, this case was removed to this Court by the United States Attorney for the Southern District of New York; and

WHEREAS, on April 20, 2022, defendants filed a motion for summary judgment and to substitute the United States of America as defendant, ECF No. 6, on the grounds that under the Federal Tort Claims Act ("FTCA"), plaintiff's sole recourse is against the United States and that the statute of limitations applicable to FTCA claims has expired; and

WHEREAS, plaintiff has not filed any opposition or other response to this motion; and

WHEREAS, despite this Court's repeated efforts to contact plaintiff's counsel, plaintiff's counsel has not responded to the Court's voicemails; and

WHEREAS, despite plaintiff's failure to respond, this Court has examined the record and the defendants' motion; and

WHEREAS, the Court finds that the United States Attorney for the Southern District of New York's certification, ECF No. 1-2, establishes that Jamel Green was acting within the scope of his federal employment and that the United States is the proper defendant in this case pursuant to 28 U.S.C. §§ 2679(a) and 2679(d)(1);

WHEREAS, the Court finds that plaintiff's administrative claim was denied on December 21, 2020 and notice was mailed to plaintiff that same day, see ECF No. 9-3, and that plaintiff thereafter had six months to file suit in a U.S. District Court pursuant to 28 U.S.C. § 2401(b); and

WHEREAS, this lawsuit was commenced on July 20, 2021, more than six months after the denial of the administrative claim; it is hereby

ORDERED that defendants' motion to substitute the United States as defendant and for summary judgment is granted in its entirety as the United States is the proper defendant; and it is further

ORDERED that the complaint should be dismissed.

Dated: New York, New York
June 6, 2022

Naomi Reice Buchwald
NAOMI REICE BUCHWALD
UNITED STATES DISTRICT JUDGE